

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DEANNA RAE PORTER WEESE-HEFT,
Plaintiff,
v.
U.S. GOVERNMENT, et al.,
Defendants.

Case No. [15-cv-02659-BLF](#)

**ORDER TO SHOW CAUSE; NOTICE
OF IMMINENT DISMISSAL**

To Plaintiff Deanna Rae Porter Weese-Heft, you are hereby ORDERED to SHOW CAUSE why this case should not be dismissed with prejudice for violation of this Court's September 21, 2015 Order Granting Motion to Dismiss with Leave to Amend. ECF 12. The Order required Plaintiff to file any amended pleading by October 12, 2015. *Id.* Plaintiff did not amend her complaint within the time provided and still has not amended it.

Failure to amend a complaint is considered a failure to comply with a Court order and is grounds for dismissal of this action with prejudice under Federal Rule of Civil Procedure 41(b). See *Yourish v. Calif. Amplifier*, 191 F.3d 983, 986 (9th Cir. 1999).

Further, Plaintiff filed her complaint on June 12, 2015, *see* ECF 1, and there is no evidence in the Court records that Plaintiff has served the United States, the DOJ, or the FBI ("Defendants") with the summons and complaint. An unreasonable delay in service is considered a failure to prosecute and is also grounds for dismissal of this action with prejudice under Federal Rule of Civil Procedure 41(b). See *Bowling v. Hasbro, Inc.*, 403 F.3d 1373, 1375-77 (Fed. Cir. 2005) (applying the law of the Ninth Circuit).

Accordingly, the Court ORDERS Plaintiff to show cause on or before January 21, 2016 why this action should not be dismissed with prejudice for failure to comply with a court order and

for failure to prosecute. If Plaintiff does not respond, the Court will dismiss the action with prejudice pursuant to Federal Rule of Civil Procedure 41(b) without further notice.

In the alternative, if Plaintiff files an amended complaint on or before January 21, 2016, the Court will dissolve the order to show cause. Should Plaintiff choose to amend the complaint, the Court advises Plaintiff that a complaint must include “a short and plain statement of the claim showing that the pleader is entitled to relief,” Fed. R. Civ. P. 8(a)(2), and must plead “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

Plaintiff may wish to contact the Federal Pro Se Program, a free program that offers limited legal services and advice to parties who are representing themselves. The Federal Pro Se Program has offices in two locations, listed below. Help is provided by appointment and on a drop-in basis. Parties may make appointments by calling the program’s staff attorney, Mr. Kevin Knestrick, at 408-297-1480. Additional information regarding the Federal Pro Se Program is available at <http://cand.uscourts.gov/helpcentersj>.

Federal Pro Se Program
United States Courthouse
280 South 1st Street
2nd Floor, Room 2070
San Jose, CA 95113
Monday to Thursday 1:00 pm – 4:00 pm
Fridays by appointment only

Federal Pro Se Program
The Law Foundation of Silicon Valley
152 North 3rd Street
3rd Floor
San Jose, CA 95112
Monday to Thursday 9:00 am – 12:00 pm
Fridays by appointment only

IT IS SO ORDERED.

Dated: December 18, 2015


BETH LABSON FREEMAN
United States District Judge

United States District Court
Northern District of California